

KASOWITZ BENSON TORRES LLP

1633 BROADWAY
NEW YORK, NEW YORK 10019
(212) 506-1700
FAX: (212) 506-1800

DIRECT DIAL: (212) 506-1980
DIRECT FAX: (212) 500-3480
KDOOLEY@KASOWITZ.COM

ATLANTA
HOUSTON
LOS ANGELES
MIAMI
NEWARK
SAN FRANCISCO
SILICON VALLEY
WASHINGTON DC

December 4, 2017

The Honorable J. Paul Oetken
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Expensify, Inc. v. Abacus Labs., Inc.*, 1:17-cv-04157-JPO

Dear Judge Oetken:

Pursuant to Local Civil Rule 7.1(d) and Individual Practices in Civil Cases of J. Paul Oetken 1.A Plaintiff Expensify, Inc., (“Expensify”) moves this Court for oral hearing concerning the pending Fed. R. Civ. Pro. 12(b)(6) motion to dismiss filed by Defendant Abacus Labs, Inc. (“Abacus”). As background:

- On June 2, 2017 Expensify filed its Initial Complaint against Defendant Abacus Labs, Inc. for infringement of U.S. Patent Nos. 8,861,861 and 9,196,006 (“Patents-in-Suit”). Dkt. # 1.
- On August 17, 2017 Abacus filed a Motion to Dismiss based on Fed. R. Civ. Pro. 12(b)(6) asserting that the Patents-in-Suit were directed to ineligible subject matter. Dkt. ## 19-21.
- On September 14, 2017 Expensify filed its First Amended Complaint, again asserting infringement of the Patents-in-Suit, including expert declarations of Mr. Jawadi and Mr. LaFollette. Dkt. ## 28-30.
- On October 12, 2017 Abacus renewed its Motion to Dismiss. Dkt. ## 33-35.
- On November 2, 2017 Expensify filed an Opposition to the Motion to Dismiss. Dkt. # 38.
- On November 16, 2017 Abacus filed a Reply Memorandum of Law in Support of the Motion to Dismiss. Dkt. # 41.

Given the breadth of the briefing, the dispositive nature of the matter, and the complexity of case law regarding patent eligible subject matter, Expensify believes oral argument would aid in clarifying the arguments before the Court. If granted, the Motion to Dismiss would invalidate

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the Patents-in-Suit and leave Expensify with only appeal as a recourse. Lastly, the body of law regarding patent eligible subject matter is rapidly changing. Due to these complexities, oral argument would be beneficial.

I met and conferred with opposing counsel and he indicated that Defendant would not oppose this motion for oral argument.

Respectfully submitted,

/s/ Kevin Pasquinelli
Kevin Pasquinelli
(CA Bar No. 246985)
Kevin J. Dooley
(SDNY Bar No. KD0417)

cc: Counsel of Record (by electronic mail)